

# **EXHIBIT A**



COUNTY CLERK & DISTRICT CLERK  
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## Case #2020CI23686

**Name**: JESUS E GONZALEZ

**Date Filed** : 12/9/2020

**Case Status** : PENDING

**Litigant Type** : PLAINTIFF

**Court** : 131

**Docket Type** : OTHER INJURY OR DAMAGE

**Business Name** : 2020CI23686

**Style** : JESUS E GONZALEZ

**Style (2)** : vs CHARTER COMMUNICATIONS INC

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Currently viewing all records

Sequence	Date Filed	Description
P00003	1/8/2021	ORIGINAL ANSWER OF CHARTER COMMUNICATIONS INC DBA SPECTRUM
S00001	12/11/2020	CITATION CHARTER COMMUNICATIONS INC ISSUED: 12/11/2020
P00002	12/9/2020	PETITION
P00001	12/9/2020	JURY FEE PAID

**2020CI23686**

W JD

CAUSE NO. \_\_\_\_\_

JESUS E. GONZALEZ	§	IN THE DISTRICT COURT
Plaintiff,	§	
	§	
v.	§	<u>131st</u> JUDICIAL DISTRICT
	§	
CHARTER COMMUNICATIONS, INC.	§	
D/B/A SPECTRUM	§	
Defendant.	§	BEXAR COUNTY, TEXAS

**PLAINTIFF'S ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE**

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, **JESUS E. GONZALEZ**, Plaintiff, filing this Original Petition and Requests for Disclosure complaining of **CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM**, Defendant, and shows:

**I. DISCOVERY LEVEL**

Plaintiff intends that discovery be conducted under Level 3.

**II. THE PARTIES**

Plaintiff is an individual who resides in Bexar County, Texas. The last three digits of Plaintiff's Driver License Number are 615. The last three digits of Plaintiff's Social Security number are 307.

Defendant, **CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM**, is a corporation which may be served with by and through its registered agent, Corporation Service Company dba CSC - Lawyers Incorporating Service Company, at 211 E. 7<sup>th</sup> Street, Suite 620, Austin, Texas 78701. Citation for service of process is requested at this time.

### III. JURISDICTION & VENUE

Venue is proper in Bexar County, Texas since it is the county where all or a substantial portion of the events giving rise to this claim occurred. This Court has jurisdiction over the subject matter and parties, and the amount in controversy is within the jurisdictional limits of this Court.

### IV. FACTUAL ALLEGATIONS

On or about February 22, 2020, Plaintiff was at his home located at 8214 Glen Boro in San Antonio, Texas. At that time, Plaintiff went into his backyard when he tripped and fell due to faulty, negligent maintenance and/or installation of a cable wire that had been installed by Defendant and had been left exposed. The faulty and/or negligently installed cable presented a dangerous condition that was known and created by, or, in the exercise of reasonable diligence, should have been discovered by, Defendant. As a direct and proximate result of the fall, Plaintiff suffered severe and permanent personal injuries for which he now sues.

### V. NEGLIGENCE

Plaintiff alleges that Defendant, its agents, servants, and/or employees, who were acting in the course and scope of their employment, were guilty of negligence toward the Plaintiff in the following respects:

1. In creating a dangerous condition that it knew existed or in the exercise of reasonable diligence should have discovered;
2. In failing to correct a dangerous condition that they knew existed or in the exercise of reasonable diligence should have discovered; and

3. In failing to warn or protect Plaintiff against known dangerous conditions or conditions that in the exercise of reasonable diligence should have been discovered.

Plaintiff alleges that each and every, all and singular, of the aforementioned acts and/or omissions on the part of the Defendant, its agents, servants, and/or employees, constitutes negligence that was the direct/proximate cause of the injuries and damages sustained by Plaintiff.

## VI. DAMAGES

Plaintiff would show that as a direct result of the negligence of the Defendant, its officers, agents, employees, and/or servants, he was caused to suffer serious and permanent personal injuries. Plaintiff has incurred the following damages:

- a. Physical pain and mental anguish from the date of injury, until the date of trial;
- b. Physical pain and mental anguish that, in all reasonable probability, Plaintiff will suffer in the future;
- c. Physical impairment and physical disfigurement in the past;
- d. Physical impairment and physical disfigurement that, in all reasonable probability, Plaintiff will suffer in the future; and
- e. Reasonable and necessary medical expenses incurred from the date and time of injury, and that will in all reasonable probability be incurred in the future.

Plaintiff alleges that these sums, taken cumulatively, are well in excess of the minimum jurisdictional limits of this Court for which Defendant should be made to pay. Plaintiff seeks monetary relief over \$200,000, but not more than \$1,000,000.

## VII. REQUESTS FOR DISCLOSURE

Plaintiff requests that the Defendant respond to the disclosures mandated by Rule 194 of the Texas Rules of Civil Procedure within fifty (50) days of its receipt of this petition.

### VIII. NOTICE OF DEMAND FOR PRESERVATION

This notice is to formally demand preservation of any evidence related to the subject incident, inclusive of but not limited to documents and items responsive to Plaintiff(s)' Discovery Requests. If you fail to properly secure and preserve these important pieces of evidence, there will be a legal presumption that the evidence would have been harmful to your side of the case. If you fail to preserve and maintain this evidence, we will seek any sanctions available under the law. The destruction/ alternation, or loss of any evidence be maintained and preserved and not be destroyed, modified, altered, repaired, or changed in any manner. WE REQUEST THAT YOU IMMEDIATELY PRINT AND SAVE ON PAPER ALL OF THE ELECTRONIC RECORDS REQUESTED HEREIN AND IN ALL FUTURE REQUESTS, IN ADDITION TO ELECTRONICALLY PRESERVING ALL ELECTRONIC RECORDS.

### IX. NOTICE OF SELF-AUTHENTICATION

Pursuant to Rule 193.7 of the Texas Rules of Civil procedure, Defendant(s) is hereby noticed that the production of any document in response to written discovery authenticates the document for use against that party in any pretrial proceeding or at trial.

### X. PRIVILEGE LOG REQUEST

If Defendant(s) seeks to exclude from discovery any information, documents or tangible things herein sought by claiming that material or information otherwise responsive to this written discovery is privileged, please consider this document to be Plaintiff(s)' request for a privilege log

that generally identifies and/or describes the withheld information, documents, or tangible things pursuant to the Tex. R. Civ. P.

**PLAINTIFF HEREBY DEMANDS A TRIAL BY JURY.**

WHEREFORE, PREMISES CONSIDERED, Plaintiff prays that, upon final trial, he recovers a judgment against Defendant for damages in excess of the minimum jurisdictional limits of the Court, pre-and post-judgment interest as allowed by law, costs of Court, and for such other and further relief to which he may be justly entitled.

Respectfully submitted,

GENE TOSCANO, INC.  
846 Culebra Road  
San Antonio, Texas 78201  
Telephone: 210/732.6091  
Telecopier: 2101/735.4167

By: /s/ *Andrew E. Toscano*  
ANDREW E. TOSCANO  
State Bar No. 00786832  
[atoscano@genetoscانو.com](mailto:atoscano@genetoscانو.com)

ATTORNEYS FOR PLAINTIFF  
JESUS E. GONZALEZ



Case Number: 2020-CI-23686



2020CI23686 S00001

**JESUS E GONZALEZ**

**VS.**

**CHARTER COMMUNICATIONS INC**

(Note: Attached Document May Contain Additional Litigants.)

IN THE DISTRICT COURT  
131st JUDICIAL DISTRICT  
BEXAR COUNTY, TEXAS

**CITATION**

"THE STATE OF TEXAS"

Directed To: CHARTER COMMUNICATIONS INC DBA SPECTRUM  
BY SERVING ITS REGISTERED AGENT CORPORATION SERVICE COMPANY  
DBA CSC-LAWYERS INCORPORATING SERVICE COMPANY

12/15/20

"You have been sued. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of twenty days after you were served this CITATION and ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE, a default judgment may be taken against you." Said ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE was filed on the 9th day of December, 2020.

ISSUED UNDER MY HAND AND SEAL OF SAID COURT ON THIS 11TH DAY OF DECEMBER A.D., 2020.

ANDREW E TOSCANO  
ATTORNEY FOR PLAINTIFF  
846 CULEBRA RD  
SAN ANTONIO, TX 78201-6244



Mary Angie Garcia  
Bexar County District Clerk  
101 W. Nueva, Suite 217  
San Antonio, Texas 78205

By: *Alexandra Johnson*, Deputy

JESUS E GONZALEZ  
VS  
CHARTER COMMUNICATIONS INC

**Officer's Return**

Case Number: 2020-CI-23686  
Court: 131st Judicial District Court

I received this CITATION on 14 Dec '20 at 1620 o'clock P M. and ( ) executed it by delivering a copy of the CITATION with attached ORIGINAL PETITION AND REQUESTS FOR DISCLOSURE the date of delivery endorsed on it to the defendant, \_\_\_\_\_, in person on the \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M. at: \_\_\_\_\_ or ( ) not executed because \_\_\_\_\_.

Fees: \_\_\_\_\_ Badge/PPS #: \_\_\_\_\_ Date certification expires: \_\_\_\_\_

\_\_\_\_\_ County, Texas

By: \_\_\_\_\_

OR: VERIFICATION OF RETURN (If not served by a peace officer) SWORN TO THIS \_\_\_\_\_

NOTARY PUBLIC, STATE OF TEXAS

OR: My name is \_\_\_\_\_, my date of birth is \_\_\_\_\_, and my address is \_\_\_\_\_ County.

I declare under penalty of perjury that the foregoing is true and correct. Executed in \_\_\_\_\_ County, State of Texas, on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Declarant

ORIGINAL (DK002)

CAUSE NO. 2020CI23686

JESUS E. GONZALEZ	§	IN THE DISTRICT COURT
Plaintiff	§	
	§	
vs.	§	
	§	131 <sup>ST</sup> JUDICIAL DISTRICT
CHARTER COMMUNICATIONS, INC.	§	
D/B/A SPECTRUM	§	
Defendant	§	BEXAR COUNTY, TEXAS

**DEFENDANT’S ORIGINAL ANSWER**

TO THE HONORABLE JUDGE OF SAID COURT:

Now comes, improperly named Defendant, CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM, and files its Original Answer in the above numbered and entitled cause of action as follows:

**I.**

Defendant denies each and every allegation contained in Plaintiff’s Original and subsequent Petitions and demands strict proof thereof.

**II.**

**OBJECTION TO IMPROPER PARTY AND VERIFIED DENIAL**

Defendant further pleads that CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM is not the proper party to this lawsuit and is not liable in the capacity sued. The proper corporate defendant that was responsible for operations, training, supervising, and matters related to the area of Bexar County, Texas at that time was SPECTRUM GULF COAST, LLC. Specifically, improperly named Defendant denies that it employed, controlled, or contracted with any person or entity whose alleged negligence caused or contributed to cause the alleged injuries for which Plaintiff seeks damages.

**III.**  
**SPECIAL DENIAL: NO PROXIMATE CAUSE**

Defendant specially denies that the incident, injuries, and damages complained of by Plaintiff were proximately caused by any negligent act, omission, and/or conduct on the part of Defendant.

**IV.**  
**PLAINTIFF'S PERCENTAGE OF RESPONSIBILITY**  
**REQUIRES REDUCTION OF DAMAGES**

In the alternative, Defendant pleads that Plaintiff failed to exercise ordinary care, caution and/or prudence and was negligent; and, that Plaintiff's own negligence was a contributing proximate cause of the incident, injuries, and/or damages which are the subject of this suit, and requires reduction of any damages recovered by Plaintiff by a percentage equal to Plaintiff's percentage of Responsibility, as provided by Section 33.012 of the Texas Civil Practice and Remedies Code.

**V.**  
**CONTRIBUTORY NEGLIGENCE**

In the alternative, Defendant pleads that Plaintiff was negligent for failing to keep a proper lookout, watch where he was going, and not acting as a reasonably prudent person under the same or similar circumstances and such negligence was a sole proximate cause or alternatively a producing cause of the incident, injuries, and/or damages which are the subject of this suit and requires a reduction of damages recovered by Plaintiff.

**VI.**  
**PLAINTIFF'S NEGLIGENCE WAS SOLE PROXIMATE CAUSE**

Defendant further alleges and pleads that Plaintiff failed to exercise ordinary care, caution and/or prudence and was negligent; and, that Plaintiff's negligence was the sole proximate cause of the incident, injuries, and/or damages which are the subject of this suit, or in the alternative,

were a proximate cause of same.

**VII.**  
**PLAINTIFF'S PERCENTAGE OF RESPONSIBILITY IS**  
**MORE THAN FIFTY (50%) PERCENT**

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In the alternative, Defendant pleads that Plaintiff's own negligence was a contributing proximate cause of the incident, injuries, and damages which are the subject of this suit, and that Plaintiff's comparative responsibility for same was more than fifty (50%) percent. Pursuant to Section 33.001 of the Texas Civil Practice and Remedies Code, Plaintiff is therefore barred from recovery.

**VIII.**  
**PAID AND INCURRED MEDICAL EXPENSES**

Defendant is entitled to offset and/or credit pursuant to Section 41.0105 of the Texas Civil Practice & Remedies Code, and the holding of *Haygood v. De Escobedo*, 356 S.W.3d 390 (Tex. 2011), which limit any recoverable medical and expenses (which are disputed) to the amounts actually paid or accepted by providers after write-offs or discounts, rather than the amounts which may be reflected in charges.

WHEREFORE, PREMISES CONSIDERED, improperly named Defendant, CHARTER COMMUNICATIONS, INC. D/B/A SPECTRUM, prays that upon final trial and hearing of this matter, judgment is entered that Plaintiff takes nothing, that he is discharged with his costs, and for such other and further relief to which Defendant may show itself justly entitled.

Respectfully submitted,

LAW OFFICE OF MARC A. NOTZON, P.C.  
120 Austin Highway, Suite 102  
San Antonio, Texas 78209  
(210) 821-5366  
(210) 821-5334 FAX

By: 

MARC A. NOTZON

State Bar No. 15119010

[marc@notzonatlaw.com](mailto:marc@notzonatlaw.com)

RAQUEL G. PÉREZ

State Bar No. 00784746

[raquel@notzonatlaw.com](mailto:raquel@notzonatlaw.com)

ATTORNEY FOR DEFENDANT

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the above and foregoing document was served this 8<sup>th</sup> day of January 2021, upon the following:

**VIA ELECTRONIC SERVICE**

Andrew E. Toscano

GENE TOSCANO, INC.

846 Culebra Road

San Antonio, Texas 78201

[atoscano@genetoscano.com](mailto:atoscano@genetoscano.com)

ATTORNEYS FOR PLAINTIFF

  
MARC A. NOTZON

CAUSE NO. 2020CI23686

JESUS E. GONZALEZ  
Plaintiff

vs.

CHARTER COMMUNICATIONS, INC.  
D/B/A SPECTRUM  
Defendant

§  
§  
§  
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§

IN THE DISTRICT COURT

131<sup>ST</sup> JUDICIAL DISTRICT

BEXAR COUNTY, TEXAS

**VERIFICATION**

STATE OF MISSOURI

§  
§  
§

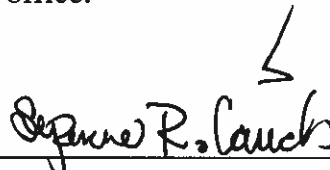
COUNTY OF ST. LOUIS

On this day personally appeared Louis Caraballo who on his oath states that he has read the foregoing Verified Denial set forth in Section II above and the facts and statements contained therein are true and correct, to the best of his knowledge.



LOUIS CARABALLO

SUBSCRIBED AND SWORN TO BEFORE ME, on this the 7<sup>th</sup> day of January 2021, to certify which witness my hand and seal of office.



Notary Public in and for the  
STATE OF MISSOURI

